

From: Lukas O'Dowd
To: [Yackulic, Ted](#); Frederick.Phillips@USDOJ.GOV
Cc: [Leefers, Kristin](#); [Moreen, Ed](#)
Subject: Re: revision to ASA
Date: Friday, April 27, 2018 10:13:35 AM

Fred and Ted,

The language below is acceptable to BHMC. Having this issue resolved quickly remains very important and critical to BHMC's ability to move forward.

Luke O'Dowd

Lyons O'Dowd, PLLC
201 N. 3rd St.
P.O. Box 131
Coeur d'Alene, ID 83816

Office (208) 714-0487 • Direct (208) 596-9838 • Fax (888) 966-0036

luke@lyonsodowd.com • www.lyonsodowd.com

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On Apr 26, 2018, at 3:48 PM, Yackulic, Ted <yackulic.ted@epa.gov> wrote:

Luke,

There is one edit we need to make to the language Fred forwarding.

The version Fred sent allows BHMC to convey both AMD and Mine-related discharges to the CTP during the first 5 years that precede the deadline for coming into compliance with the CWA. We don't know yet if the CTP will be able to effectively manage other Mine-related flows and will not know if the CTP will be able to handle the additional flows until those flows are identified and characterized. We will consider allowing BHMC to send additional mine-related flows during the first five years but only if we conclude that the CTP can effectively treat such flows. Thus, here is a version that is closer to what we would approve.

BHMC shall obtain an NPDES permit for its discharge of AMD and any other Mine-related discharges within five years of the Effective Date. Until such time, BHMC shall continue to convey AMD to the CTP for treatment. EPA may approve the conveyance of other Mine-related

discharges to the CTP for treatment during the initial five year period. By the end of the five- year period, BHMC shall treat all AMD and Mine-related discharges pursuant to an EPA approved treatment option and in compliance with Section 402 of the Clean Water Act, 33 U.S.C.§ 1342. Treatment options may include:

- a. entering a lease agreement with EPA providing for BHMC to lease and operate the CTP;
- b. purchasing and operating the CTP; or
- c. constructing and operating a treatment plant.

From: Phillips, Frederick (ENRD) [<mailto:Frederick.Phillips@usdoj.gov>]

Sent: Thursday, April 26, 2018 1:45 PM

To: Lukas O'Dowd <luke@lyonsodowd.com>

Cc: Yackulic, Ted <yackulic.ted@epa.gov>; Leefers, Kristin <Leefers.Kristin@epa.gov>; Moreen, Ed <Moreen.Ed@epa.gov>

Subject: revision to ASA

Luke – this, or VERY close to this, is how paragraph 33 will be revised. Hope to have document out to sign by Monday.

Thanks,

FSP

BHMC shall obtain an NPDES permit for its discharge of AMD and any other Mine-related discharges within five years of the Effective Date. Until such time, BHMC shall continue to convey AMD and all Mine-related discharges to the CTP for treatment. By the end of the five-year period, BHMC shall treat all AMD and Mine-related discharges pursuant to an EPA approved treatment option and in compliance with Section 402 of the Clean Water Act, 33 U.S.C.§ 1342. Treatment options may include:

- a. entering a lease agreement with EPA providing for BHMC to lease and operate the CTP;
- b. purchasing and operating the CTP; or
- c. constructing and operating a treatment plant.